



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,292	04/09/2001	Carl D. Dvorak	29794/37078A	6873

23598 7590 03/16/2007
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

EXAMINER

ROBERTSON, DAVID

ART UNIT	PAPER NUMBER
----------	--------------

3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/829,292

Applicant(s)

DVORAK ET AL.

Examiner

Dave Robertson

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-60 is/are pending in the application.
- 4a) Of the above claim(s) 35-39 and 42-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40, 41, 47-52, 54-58 and 60 is/are rejected.
- 7) ☒ Claim(s) 53 and 59 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 35-39 and 42-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/22/2006.

Response to Amendment

2. Claims 1-34 are cancelled by amendment.
3. Examining claims 40, 41, and 47-60.

Response to Arguments

4. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 40, 41, 47, 48, 54, and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Ralston et al (US Pat. 6,389,454).

Ralston discloses an online, multi-facility, medical patient appointment self-scheduling system. Specifically:

Claim 40

Ralston teaches providing a first set of rules affecting self-scheduling applicable to a collection of providers (see column 1 from line 20, column 2 from line 23, and column 4 from line 18 describing self-scheduling access rules to stand-alone, multi-facility, and larger organization service providers with multiple facilities); a second set of rules for a specific healthcare provider (column 4 from line 18, esp. column 5 from line 21, where rules for operating hours, suites and equipment, working hours of staff, and other restrictions for a specific facility are matched to the patient scheduling request); communicating to the patient over the internet to schedule a medical appointment with a particular provider of a collection of providers (columns 4 and 5 and as above); and scheduling of the patient if the rules of the collection of providers and specific provider allow self-scheduling (it is inherent to Ralston that a provider within an organization of providers participating in the method and system of Ralston has allowed self-scheduling).

Claim 41

Ralston teaches all of claim 40 including the application of rules for multi-provider subsets of healthcare providers (see column 4 from line 18, as above, and esp. column 7 from line 21, "multiple organizations' multiple facilities..").

Claims 47 and 48

Ralston teaches the method of claims 40 and 41, implemented as a computerized scheduling system [for] allowing patients to schedule their own appointments (see Figure 1 and above).

Claim 54

Ralston teaches claim 40, including where the medical appointment is scheduled in a database providing an integrated medical record. In at least the "consolidated database" and further in the specific providers' databases, the client information contains personal information, insurance information, information on the diagnosis and treatment, payment data, etc (see column 4 from line 50 and column 7 from line 24).

Claim 60

Ralston teaches the method of claim 54, implemented as a computerized scheduling system [for] allowing patients to schedule their own appointments (see Figure 1 and above).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 49-51 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al (US Pat. 6,389,454) as applied to claims 40 and 47 above, and further in view of Metro One Communications (WO 01/67731).

Claims 49-51

Ralston teaches online medical self-scheduling where information received on a patient includes diagnosis and recommended treatment type (column 4 at line 39 and continuing from line 50), and applying patient information to communicate and schedule a medical appointment; however, Ralston does not expressly teach creating an electronic ticket identifying the patient and allowing the patient to schedule a medical appointment of a predetermined type of treatment where the ticket has a status of unused or completed.

That Ralston does not expressly teach details of the internal computer representation and data processing of the disclosed system as creating a form of virtual or electronic ticket that acts to track and to limit a patient to self-scheduling a medical visit or procedure of a given type, one of ordinary skill in the art would anticipate such internal representation and function in order to prevent a patient from scheduling an inappropriate procedure for his or her medical condition. While Ralston does not teach implementation details, Ralston teaches a data processing system allowing appointments to be cancelled and rescheduled (see column 6 from line 28) and scheduled appointments with a "unique appointment number" (column 6, line 25), thus suggesting internal tracking of the status of the patient appointment request and fulfillment by a number or "ticket". Further, Ralston teaches associating the appointment request with insurance information (column 4, line 64), suggesting an old and well known business process of a scheduled medical procedure first requiring a

Art Unit: 3623

pre-authorization number from the health insurance provider, thereby limiting the patient to appointments of a specific treatment and quantity.

Still, the notion of a virtual or electronic ticket is old and well known in the art of scheduling service providers including associating the ticket with a client requiring services of a particular type and tracking the status of the ticket until fulfilled. Metro One teaches an internet-enabled concierge service for providing services to clients including an electronic ticket-based tracking system where the ticket maintains client, scheduling, service-type, and fulfillment status until the requested service is scheduled and fulfilled.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to implement client information, treatment type, and scheduling status, including cancellation, rescheduling and fulfillment status, according to the inherent capabilities of Ralston to effect equivalent functions afforded by the "ticket" metaphor, as explained above, as this would have provided a readily available and easily communicated implementation strategy for the data representations and processing systems disclosed generally by Ralston for the purposes of the instant invention.

Claim 55-57

Ralston teaches the method of claims 49-51, implemented as a computerized scheduling system [for] allowing patients to schedule their own appointments (see Figure 1 and above).

9. Claims 52 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al (US Pat. 6,389,454) as applied to claim 40 and 47 above, and further in view of Tam et al (US 7,188,073).

Claim 52

Ralston teaches communicating and automatically scheduling the patient over the internet to schedule a medical appointment; however, Ralston does not expressly teach a first set of appointment times allocated to self-scheduling by patients where if the first set of appointment times are not available, the patient is referred to a human intermediary for scheduling in a second set of appointment times. That Ralston's healthcare providers provide appointment times for self-scheduling teaches a first set of appointment times, however, Ralston does not provide a second set of appointment times distinct from the first set of appointment times.

It is old and well known in medical scheduling for physicians to provide blocks of time in appointment schedules for controlling what procedures are performed when (such as early morning surgery), or for various scheduling advantages such as "Open" office scheduling (see Merriam-Webster Medical Office Handbook, page 207).

Specifically in the art of online medical appointment self-scheduling, Tam teaches blocks of appointment times expressly set aside for online schedulers where service providers "bias users requesting appointments to certain time slots [such as] morning appointments," (see Tam, column 10 from line 46).

It would have been obvious to one of ordinary skill at the time of the invention to combine the teaching by Tam of limiting online scheduling appointments to a first set

Art Unit: 3623

into Ralston to limit the appointment times to a first set available to patient self-scheduling. Participation in Ralston in no way requires providers to submit their entire schedule and therefore all appointment times to online self-scheduling, and, furthermore, it would be unlikely and disadvantageous, given the various scheduling practices of medical offices, not to set aside blocks of appointment times for different purposes.

It is also old and well known in the art of online systems whether they be for scheduling, reservation, or other self-service, that if satisfaction cannot be gained by automated means to refer the customer, client or patient to a human operator. Official notice is taken that this practice is common in the art. Thus Ralston, in view of Tam the general art of medical office scheduling suggests rules setting aside a first set of appointment time for self-schedulers (necessarily leaving at least a second set of appointment times of the remaining times available for appointments), taken together with operator assistance, it would have been obvious to one of ordinary skill at the time of the invention to provide a first set and a second set of appointment times, the first reserved for self-schedulers, referring to a human operator for scheduling in a second set, as this would have provided the aforementioned advantages to general office scheduling, and further improved customer satisfaction for the patients of the healthcare provider or organization.

Claim 58

Ralston teaches the method of claim 52, implemented as a computerized scheduling system [for] allowing patients to schedule their own appointments (see Figure 1 and above).

Allowable Subject Matter

10. Claims 53 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Todd (US Pat. Pub. 2005/0055252) teaches a method and system for online self-scheduling of medical appointments.

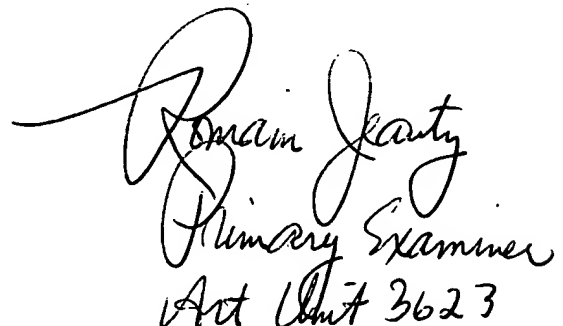
Orlick (US Pat. 7,028,178) teaches online self-scheduling for student portrait scheduling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dcr



Roman Janty
Primary Examiner
Art Unit 3623